



Water Quality NewsFlash

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Ocean Pollutants – Increased attention to open ocean impacts – Regulatory activities related to water quality tend to focus on inland waters and near-shore ocean waters. Impacts on the ocean as a whole, however, are not usually addressed. For example, the proposed San Francisco Bay TMDL for mercury assumes a net environmental benefit when mercury-containing dredge spoils from the Bay are disposed of in the ocean or when Bay sediments with high levels of mercury are naturally transported out of the Bay to the ocean. To the extent that this mercury ends up buried in ocean sediments, this approach may be acceptable. However, some ocean fish have elevated mercury levels and much of this mercury comes from land-based sources. The State Water Resources Control Board (SWRCB) has delayed action on this TMDL until several additional issues are addressed including ocean impacts from Bay mercury.

Trash presents a similar issue. Trash is addressed as an inland or shoreline aesthetic problem but the impacts that these wastes have when transported to the open ocean are generally not considered. A 1999 study of marine debris in the mid-Pacific had a surprising result—the mass of plastic particles collected was six times more than the mass of plankton (microscopic organisms that float freely with oceanic currents and are the base of the food chain). The plastic particles are accumulated by filter feeders and other marine organisms. Plastic particles and bags have been implicated as causes of deaths for whales and seabirds: <http://www.sundayherald.com/46765>

The State Water Resources Control Board is funding a conference to address plastic wastes that end up in the ocean. The *Plastic Debris, Rivers to Sea Conference: Focusing on the Land-Based Sources of Marine Debris* will be held Sept. 7-9, 2005 in Redondo Beach: www.plasticdebris.org as noted in earlier *NewsFlashes*, Caltrans is implementing a statewide educational effort to reduce litter.

Consent Decrees – Legislation would provide for review or termination – A consent decree is a court-sanctioned agreement between parties to a lawsuit. For example, in response to a lawsuit from a regulatory agency or environmental group, a discharger might agree to a schedule to build and implement improved treatment facilities rather than going to trial. Consent decrees may include not only implementation schedules but also associated penalties for not meeting the schedule.

In California, most Total Maximum Daily Loads (TMDLs) are being produced according to consent decrees. In the Los Angeles Region, a consent decree between the U.S. EPA, Heal the Bay, and BayKeeper, was approved by the federal court in 1999. It requires EPA to complete TMDLs for all impaired waters within 13 years. (The Regional Board actually prepares most of the TMDLs, but EPA issues the TMDL if the Board is not timely.)

A bill currently under consideration by Congress would allow a state or local government to file a motion to vacate or modify a consent decree four years after the decree is entered or after the election of a new state or local official. The legislation states, “Whenever possible, courts should not impose consent decrees that require technically complex and evolving policy choices, especially in the absence of judicially discoverable and manageable standards.” The “Federal Consent Decree Fairness Act” is posted at <http://www.theorator.com/bills109/s489.html>

WQ NewsFlash is a weekly update of storm water and related news for the Department. *Verify information before taking action on these bulletins.* Contact Betty Sanchez, Betty_Sanchez@dot.ca.gov (916) 653-2115, or Fred Krieger, (510) 843-7889, fkrieger@msn.com with questions or to be added or deleted from e-mail list. Posted online at: <http://www.dot.ca.gov/hq/env/stormwater/publicat/newsflash/index.htm>